

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No.5566 of 2017

Date of decision: 21.08.2017

Tarsem Singh and another

...Petitioners

Versus

Santokh Singh and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Amit Dhawan, Advocate,
for the petitioner.

Ritu Bahri, J.

Challenge in this petition is to the order dated 18.08.2015 (Annexure P-3) passed by the Civil Judge (Junior Division), Nakodar, whereby defence of defendant-petitioners was struck off and the order dated 09.08.2017 (Annexure P-9), whereby zimni order dated 05.07.2017 has been rectified.

Learned counsel for the petitioners has referred to the order dated 05.07.2017 when the case was fixed for evidence of the plaintiffs. In that order, it was observed by the trial Court that written statement had not been filed by the defendants. Accordingly, the earlier zimni order dated 18.08.2015 was rectified. Thereafter, an application filed by defendant-petitioners under Order 11 Rule 14 CPC was disposed as the documents were submitted to the counsel in the Court itself. The case was adjourned to 26.07.2017 for filing of the written statement. On the next date i.e.

accepted and one opportunity was granted to defendant No.3 to file the written statement. Once the earlier zimni orders had been corrected on 05.07.2017, there was no occasion for the trial Court to again rectify the order dated 05.07.2017 and fix the case for evidence of the plaintiffs. Trial Court has committed a mistake because vide order dated 26.07.2017, the written statement filed by defendant Nos. 1 and 2 (petitioners) was accepted and by accepting the said written statement, the order dated 18.08.2015 was nullified. Therefore, there was no occasion for the trial Court to again refer to the order dated 18.08.2015.

In these circumstances, orders dated dated 18.08.2015 & 09.08.2017 (Annexures P-8 & 9) are set aside and the trial Court is directed to proceed with the trial in accordance with law after accepting the written statement(s) of defendant Nos. 1 to 3.

Disposed of accordingly.

21.08.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No